

October 28, 2004

VIA ELECTRONIC MAIL AND FACSIMILE TRANSMISSION

Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

**RE: Rule Certification and Request for Commission Rule Approval.
NYMEX Submission 04.147: New Temporary NYMEX Incentive
Program in Support of the Listing for Trading of the NYMEX Brent
Crude Oil Futures Contract on New Dublin Trading Floor**

Dear Ms. Webb:

The New York Mercantile Exchange, Inc. ("NYMEX") hereby first notifies the Commodity Futures Trading Commission ("CFTC") of a self-certification filing involving a new NYMEX incentive program ("Incentive Program") being implemented in connection with the listing of the NYMEX Brent Crude Oil Futures Contract ("Brent") on the Exchange's new Dublin trading floor. In addition, the Exchange is also submitting a voluntary request for CFTC review and approval of this new program.

The Incentive Program is described immediately below. Please note that a separate discussion of the Incentive Program contained on a pdf file submitted as part of this filing is subject to a NYMEX petition for confidential treatment. A separate letter being submitted to the CFTC's FOIA Compliance Office includes a reasonable justification for the request for confidential treatment.

The Incentive Program includes three basic components. Absent further action by the Exchange, each of these components is currently set to expire after three months. These components include the following: a travel stipend available to floor members of various exchanges who are relocating to Dublin and to their clerks; a payment to market participants in the Brent contract (but excluding trading for floor members' own accounts) of fifty cents a lot (per side); and a waiver of Exchange transaction and clearing fees in the NYMEX Brent contract.

We believe that these short-term incentives will lower market participants' transactions costs in the Brent contract being listed on the new Dublin trading floor and that the incentives accordingly will result in greater trading and liquidity in this contract. Consequently, we believe strongly that these temporary incentives should provide a procompetitive effect.

As noted, the Exchange will provide a short-term fee waiver or "holiday" of all Exchange transaction and clearing fees in the Brent futures contract, including a waiver of the surcharge charged by the Exchange for transactions on NYMEX ACCESS® in the

Brent contract. In addition, the Exchange currently charges a monthly access fee of \$100 for non-members who trade directly on NYMEX ACCESS®. This monthly charge also will be waived during this period for NYMEX Europe permittees.

Second, the Exchange will provide a weekly stipend of \$1,000 (U.S. dollars) to NYMEX Europe permittees and to their clerks. This stipend is intended to defray in part transportation and living expenses, such as hotel bills, incurred in connection with establishing trading operations in Dublin. This stipend would be based upon a demonstrated commitment to active involvement in the Brent contract as reflected by a regular presence on the trading floor. In a normal business week, such regular presence generally would be satisfied by attending at least four of the five open-outcry trading sessions and would be confirmed by a sign-in procedure that has been established by Exchange staff.

For persons accepting payment by wire transfer, payment generally should be available on or around the end of each business week. Payment by wire transfer also facilitates payments in currencies other than the U.S. dollar (e.g., pounds or Euros); however any such payments would be converted at the spot currency rate applicable at the time of the conversion. Payments by check would only be made in U.S. dollars and would be mailed to the address of record in the Exchange's membership records for that payee.

Finally, all customer type indicator ("CTI") 2 and CTI 4 trades for the Brent contract are eligible to receive a \$.50 per contract fee (per lot per side) for the Brent contracts that are traded on the Exchange's Dublin trading floor or traded pursuant to an exchange of futures for physicals or exchange of swaps transaction (the "Incentive Fee"). This program is not available for trading in the Brent contract executed on NYMEX ACCESS®.

Thus, payment is available for trading for the account of a member firm or for the account of a non-member customer of the Exchange. But the Incentive Fee will not be available for any trading for the account of a NYMEX Dublin or New York floor member, regardless of whether the member is on or off the trading floor.

To take advantage of this incentive program, accounts of participating customers and member firms will need to be registered by the account owners themselves through an online registration process that is now available through the Exchange's website. This payment will be made to the account of the applicable account owner. Thus, in the case of a non-member customer of the Exchange, the payment would be made to the customer account of that customer carried by the customer's clearing member. Similarly, with respect to trading by a member firm for its proprietary account, the payment would be made to the house or proprietary account of that member firm. In other words, all of these payments will result in payment to the ultimate account owner (of the customer or member firm engaging in transactions in the NYMEX Brent contract.)

All Incentive Fees generally will be paid quarterly 30 days after the end of the quarter, directly to the holder of the account identified at registration, via either check or wire transfer. Payments made to Incentive Program participants who reside outside the United States of America will be calculated in U.S. dollars and will be translated via the recipient's local currency on or about the date of payment and paid via a wire transfer. All payments made in the United States of America will require appropriate tax

identification (e.g., Social Security numbers or employer identification numbers) upon registration. The Exchange reserves the right to alter any of the rights or obligations under the Incentive Program in its sole discretion, without prior notice to users.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the Incentive Program complies with the Act, including regulations under the Act. Pursuant to Section 5c(c) of the Act and CFTC Rule 40.5, the Exchange additionally is submitting a voluntary request for Commission review and approval of this filing.

Should you have any questions concerning the above, please contact the undersigned at (212) 299-2207.

Very truly yours,

Brian Regan
Vice President & Counsel

cc: Eileen Donovan
Riva Adriance, Esq.
Clarence Sanders, Esq.

Attachments